

SCHOOL ZONE PROTECTIVE ORDINANCE

RUTHERFORD COUNTY

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SCHOOL ZONE PROTECTIVE ORDINANCE

100.01 TITLE

This Ordinance shall be known as the “School Zone Protective Ordinance of Rutherford County, North Carolina”.

100.02 PURPOSE

The purpose of this ordinance is to protect the health, safety and general welfare of all children attending public primary and secondary (K-12) schools, and all children attending public charter schools as defined by North Carolina General Statute 115C-238.28A et. Seq., in Rutherford County, to preserve a safe environment which is conducive to learning for children attending such schools in Rutherford County by limiting truck traffic, emissions in the air and noise which may be disruptive to the learning environment and to protect said children from the potential adverse effects of the location of certain industries or other potential uses that are not conducive to a learning environment which may be within a school protective zone. The Rutherford County Commissioners shall establish certain criteria to accommodate such industries and to establish standards for the placement, expansion, and growth of such industrial and other use activities while maintaining the health, safety and general welfare standards of established public primary or secondary K-12 and public charter schools in Rutherford County.

100.03 AUTHORITY

This Ordinance is adopted pursuant to the authority and provisions of North Carolina General Statutes Chapter 153A-121.

100.04 JURISDICTION

This Ordinance shall apply to all unincorporated areas of Rutherford County which are not included in the extraterritorial jurisdiction of any Municipality. All municipalities and their respective corporate limits shall be exempted from the Ordinance, unless they choose to adopt this Ordinance or some form thereof.

100.05 DEFINITIONS

The definitions of words and phrases in this Ordinance shall be unique to this Ordinance and may not be interpreted for usage in ordinary, everyday language.

Certain Industries. Industrial activities not permitted within School Zones in Rutherford County as a result of this Ordinance shall include: Agricultural Pesticides and/or Other Chemical Manufacturing and Storage Facilities, Ammunition and/or Explosives Manufacturing and Storage Facilities, Animal Slaughtering or Rendering Facilities, Asphalt Plants, Chip Mills, Concrete Plants, Electric Power or Natural Gas Substations, Hazardous Waste and/or Radioactive Waste Disposal Facilities, Incinerators, Mining, Quarrying, Sand Pits, and Mineral Extraction Operations, Sanitary Landfills and Other Solid Waste Disposal Facilities, and Scrap Metal Salvage Yards.

Other Uses. Other types of establishments not permitted within School Zones in Rutherford County as a result of this Ordinance shall include: Amusement Parks, Body Piercing Establishments, Commercial Game Rooms, Motor Sport Facilities, Sexually Oriented Business, and Tattoo parlors.

100.06 RESTRICTED AREA

Certain industries and other uses as defined above not permitted within School Zones in Rutherford County shall not be located or operated within two thousand (2000) feet of the property boundary of a public primary or secondary K-12 or public charter school in Rutherford County. The 2000 feet shall be measured from the proposed building location or the nearest point of operation and/or affected work area and run to the school property boundary. In addition, although this Ordinance does not apply to real property located within any current municipal boundary, the same measurement guidelines shall be applicable to the measurement of the distance between a school boundary located within a municipal limit and a prohibited use located in an unincorporated area of the county, unless a town has adopted extraterritorial zoning.

100.07 SURVEY

The County Building Inspector, at his discretion, may require a plat for those uses that are regulated by this ordinance to ensure that the distance from the building location or the affected work area to the school property boundary meets the requirements of the Ordinance.

100.08 PENALTIES FOR VIOLATIONS

- A. Any person, firm, or corporation violating the provisions of this Ordinance shall be guilty of a misdemeanor and shall be subject to punishment as provided by NCGS14.4. Each day that such violation of this Ordinance may occur, shall be considered a unique and separate criminal offense.

B. In lieu of, or in addition to the criminal penalties herein provided, the Rutherford County Board of Commissioners may impose civil penalties up to Five Hundred (\$500.00) Dollars a day for each and every day there is a violation of this Ordinance. No penalty shall be assessed prior to notification by Rutherford County officials to the offender. Should the violator fail to pay such penalty within thirty (30) days, then such penalty may be recovered by Rutherford County in a civil action in the nature of a debt. Furthermore, Rutherford County may seek injunctions in the Superior Court of Rutherford County enjoining the continued operation of such industry pending a hearing on the merits. The violator may contest any penalty in a court of appropriate jurisdiction.

100.09 SEVERABILITY CLAUSE

Should any section or provision of the School Zone Protective Ordinance be determined by a court of competent jurisdiction to be unconstitutional or invalid, such determination or decision shall not affect the validity of the Ordinance as a whole, or a part thereof, other than the part so declared to be unconstitutional or invalid.

100.10 GRANDFATHER PROVISION

Any certain industry or other use not permitted by this Ordinance, which is in operation at the time of the adoption of this Ordinance, and, whose facilities lie within 2000 feet, measured according to the above requirements, of the boundary of a public primary or secondary school or public charter school is hereby excepted from the provisions of this ordinance. Any grandfathered industry or other use as defined herein shall be allowed to expand their existing use.

Adopted this the 1st day of October, 2001.

Chairman, Board of Commissioners

ATTEST:

Clerk, Board of Commissioners